

Appl. No. 10/061,727
 Arndt. dated December 17, 2004
 Resp. to Advisory Action dated Sept. 9, 2004

REMARKS

In view of the foregoing amendment and the following response, Applicants respectfully request reconsideration of the claims pending in this application. Claims 1-14 are pending. Claims 1, 2, 5 (as to SEQ ID NOS: 1 and 2), 6, 7, 9, 10 and 11 are the subject of this examination. Claims 1, 2, and 7 are allowed. Claims 5, 6, 9-11 are rejected. Claims 5, 10 and 11 are amended; nonelected claims 3, 4, 5 c), 5 d), 5 f), 8, 12, 13 and 14 are canceled. In the discussion that follows Applicants address each of the continued rejections and objections identified in the Advisory Action mailed September 9, 2004.

The Examiner previously rejected claims 10 and 11 because the Examiner was of the opinion that the initial use of polypeptide was indefinite. Applicants respectfully disagree with the Examiner because the polypeptide which is prepared is defined by the expression vector which is recited in the body of the claim. The use of polypeptide is in the preamble and is not a defining term. Applicants request that the Examiner remove this rejection.

The Examiner further maintains the rejection of claims 5, 6, 9, and 10 under 35 U.S.C. 102(e) as being anticipated by the Cao reference or the Huang et al. reference.. The Examiner indicates that these references teach a cDNA that shares 100% sequence identity with nucleotides 1 to 1354 of SEQ ID NO:1. The Examiner insists that since claim 5 parts a, b, e, and g encompass SEQ ID NO:1 the teachings of these references teach the limitation of claim 5. Applicants amend claim 5 h) (renumbered to part e) to recite only part e (renumbered to read c). Rerumber 5c) recites a polynucleotide that encodes a polypeptide comprising amino acid residues 449 to 687. These are not within nucleotides 1- 1354 taught by the Cao reference. In view of the amendment to claim 5, Applicants respectfully submit that this rejection is overcome and request that the Examiner withdraw rejection. Similarly, dependent claim 6, 9, and 10 are now allowable.

The claims reciting nonelected subject matter are canceled.

In view of the foregoing remarks and amendments, Applicants submit that the claims pending in this application are in condition for allowance and respectfully request a notice to that effect.

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Respectfully submitted,

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CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office on the date indicated below.

Signed: *Janis C. Henry*

Date: Dec. 17, 2004